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Western Washington Municipal SW Comment – NPDES Phase II
Mr. Bill Moore
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Water Quality Program
P.O. Box 47600
Olympia, WA 98504-7600

Dear Mr. Moore:

Thank you for the opportunity to submit comments on the “First Preliminary Draft Proposed Municipal Stormwater NPDES General Permit for Western Washington Phase II Municipal Separate Stormwater Sewer Systems.” I am submitting these comments as director of the Puget Sound Action Team staff rather than as the chair of the multi-agency Puget Sound Action Team partnership.

In general, we support the current draft of the permit and commend the department for its efforts. We particularly support use of the 2005 Stormwater Management Manual for Western Washington as the minimum technical standard for new development and redevelopment projects, especially the flow control standard for new development projects. Stormwater runoff is a leading cause of pollution in urban areas of Puget Sound and has been cited by Shared Strategy for Puget Sound as one of the threats to salmonids and bull trout listed under the Endangered Species Act. The department’s manual is a key component of our region’s toolbox to protect water resources, especially salmonids and bull trout, from the adverse effects of stormwater runoff. We do, however, have several concerns with the draft permit in its current form. The following comments are divided into three sections: areas of concern, suggestions for improvement, and areas of support.

Areas of Concern

- S6 Monitoring – While we support the requirement for permittees to develop a comprehensive long-term monitoring program during the life of the permit, we are concerned that the current draft:

- 1) Does not require permittees to conduct any monitoring during the life of this permit.
- 2) Provides a timeline for permittees to develop a monitoring plan (four years) that does not allow for sufficient review and refinement of that plan before the next permit cycle begins (at 5 years).
- 3) Does not clearly articulate that phase II permittees must develop an integrated, collaborative monitoring program in conjunction with other phase I and/or II permittees and begin to participate in monitoring efforts; or develop and begin to undertake a monitoring program individually.

We believe that development of a monitoring plan and either collaborating with other permittees (preferably phase I permittees if located within the same WRIA) or undertaking monitoring individually should occur within the first years of this permit cycle to allow for some review and refinement for the next permit cycle. Stormwater runoff is a major threat to Puget Sound. We feel that long-term monitoring is a key tool to help us identify problems, focus limited resources, identify effective techniques, improve permit provisions, and protect water resources. The *2005-07 Puget Sound Conservation and Recovery Plan* includes an action/result that stormwater permits that are issued will include “monitoring and reporting” (Priority 3, Desired Result B1, page 15). A 2004 survey of 81 cities, towns and counties in Puget Sound (almost all of which are likely to be covered by this permit) revealed that nearly half of the 38 respondents already conduct some type of programmatic and environmental monitoring.

We have included additional suggestions for improvement and comments related to S6 below.

- S6 Monitoring – While it is reasonable to include BMP effectiveness monitoring in this permit, we believe that this type of monitoring is best accomplished through a regional effort rather than through the efforts of individual permittees (page 10, lines 3 & 4). We recommend removing the requirement that individual permittees’ programs include BMP effectiveness monitoring and inserting a requirement that “permittees contribute to the development and implementation of a regional BMP effectiveness monitoring program that recognizes variable local conditions.” A regional effort would allow for a more thorough, accurate and cost-effective process to select BMPs, conduct testing with proper QA/QC protocols, and summarize and communicate test results.
- S1 Permit Coverage Area and Appendix 2 – While we commend the department for designating the cities of Anacortes, Oak Harbor and Port Angeles for permit coverage, we are concerned that under S1A and Appendix 2 Island and Clallam counties are not specifically listed. (Skagit County is listed but we presume this is for the urbanized area of Mount Vernon.) Does this mean that the urban growth areas of Anacortes, Oak Harbor and Port Angeles are not covered by the permit? If so, this would be inconsistent with other permit provisions that include the urban growth areas of other cities covered by the permit. We recommend that the department add Island and Clallam counties to S1A and Appendix 2 for the urban growth areas outside of incorporated Oak Harbor and Port Angeles.

- Appendix 2 Regulated Cities and Counties – While we commend the department for developing draft evaluative criteria (dated July 2004), we are concerned that the department has not used the criteria to evaluate additional MS4s (Municipal Storm Sewer Systems) for potential permit coverage. Section 123.35 of the federal rule governing this permit requires that the department “develop a process, as well as criteria, to designative small MS4s other than those described in Section 122.32(a)...” Our work coordinating the Puget Sound Action Team partnership to conserve and recover the Sound’s resources leads us to recommend that the department evaluate the following fast growing MS4s for permit coverage:
 - City of Blaine (for stormwater discharges contributing to the downgrade of commercial shellfish growing areas in Drayton Harbor).
 - City of Port Townsend (for its extensive marine shoreline and potential adverse effects of stormwater discharges on salmonids threatened with extinction that use the city’s shoreline area).
 - City of Sequim (for stormwater discharges to Sequim Bay and the lower Dungeness River, both of which contain shellfish growing areas).
 - City of Shelton (for stormwater discharges to shellfish growing areas in Oakland Bay and the development of a TMDL for Goldsborough Creek for fecal coliform bacteria. The creek runs through the city).
 - Belfair urban growth area (for discharges to shellfish growing areas and areas of low dissolved oxygen in Hood Canal and for stormwater discharges named in a TMDL for the Union River. The river runs through the community.)
 - In addition to the above named municipalities, we recommend that the department evaluate the industrialized area of the Kent Valley for coverage. While this area is not incorporated, it contains vast amounts of impervious surface area that contributes stormwater runoff to the Green River, and eventually Puget Sound.
- Timelines in S7 Stormwater Management Program – We feel that several of the timelines contained in this section are unnecessarily long. The *Puget Sound Water Quality Management Plan* has called on all cities and counties in the basin to undertake these activities since at least 1994, and many permitted jurisdictions have already done so. Specifically:
 - Page 18, line 18: Two years to establish a process of permits, site plan review, inspections and enforcement capacity seems unnecessarily long. The 2004 survey of Puget Sound jurisdictions (referenced on page 2 of this letter and again below) revealed that 100 percent of the respondents already had in place a process to review site plans, and more than half already conducted inspections and trained staff. We recommend revising this timeline to one year after permit completion.
 - Page 14, line 39 and Page 16, line 16: Two years to adopt an illicit discharge ordinance and to implement procedures for reporting and correcting illicit discharges seems unnecessarily long. The 2004 survey described above revealed that 79 percent of respondents already had illicit discharge detection and water quality response programs. We recommend revising this timeline to one year.
 - Page 16, line 21 and line 26: 21 days to initiate an investigation of a reported illicit storm drain connection, and 180 days to ensure termination of that illicit connection, seems unnecessarily long, and might well result in significant

pollution. We recommend revising these timelines to 7 days and 90 days, respectively.

- Page 19, line 4 and Page 20, line 19: Two years to adopt an operation and maintenance (O&M) ordinance for permitted facilities, and three years to implement an O&M program for municipal operations, seems unnecessarily long. The 2004 survey described above revealed that 70 percent of respondents already had adopted an O&M ordinance and were conducting an O&M program. We recommend revising this timeline to one year.

Suggestions for improvement

- The following suggestions refer to S6 Monitoring:
 - Page 9, line 27 – We recommend revising the sentence beginning, “The monitoring program shall be submitted...” to begin, “A description of a proposed monitoring program and the permittee’s plans for implementing the program shall be submitted...” (As written it’s not clear what would be submitted.) This change should be repeated on page 11, lines 13 and 16.
 - Page 9, 10, or 11 – We recommend inserting information about the format and content of the submittal required of permittees. For example, include all the requirements included in the preliminary draft Phase I permit regarding potential monitoring stations for various land uses; format of submission; inclusion of all required elements of a QAPP; description of program purpose, design, methods; frequency and type of sampling, etc.
 - Page 10, lines 10 to 13 – We recommend broadening the types of collaborations that can be developed for integrated water quality monitoring programs. For some permittees, WRIsAs will not be the most logical units for collaboration. We should encourage collaborations of all/some permittees discharging directly to central Puget Sound or to other basins or sub-basins of Puget Sound (e.g., Sinclair/Dyes inlets, Whidbey Basin, Hood Canal).
 - Page 10, lines 16 to 31 – We recommend inserting language that clarifies that lead permittees (along with non-lead permittees) are responsible for implementing monitoring programs.
 - Page 9, line 28 and Page 11, line 14 – We recommend shifting the timeframe for delivering (descriptions of) monitoring programs from 4 years to 2 years. Submittal at 4 years seems unlikely to leave sufficient review time to include appropriate monitoring program language in the next version of the permit (which should be 5 years after the effective date of this permit).
- S7, #4 Controlling Stormwater Runoff from New Development, Redevelopment and Construction Sites – We support inclusion of the 2005 Stormwater Management Manual for Western Washington (SMMWW) for operation and maintenance standards, and feel the manual should be included in element #4. Specifically, permittees should practice erosion and sediment control practices that are at least as stringent as those found in Volume II of the 2005 SMMWW. We recommend including the 12 minimum control measures for erosion and sediment control found in Volume II of the manual. This would significantly strengthen the permit by providing clear expectations for permittees and

should help protect state waters by including the most current thinking for managing construction site runoff.

- S7, #1 Public Education and Outreach – We recommend making the following changes to make this element stronger and more consistent with other program elements, provide permittees with clear requirements, and provide better protection for state waters:
 - Page 12, starting line 31: Recommend changing to “impacts of stormwater discharges on surface and ground water quality, quantity and biological resources. The program must include communication to the community regarding the permittee’s program activities and specific actions citizens should take to reduce harm from stormwater runoff. Outreach efforts must include a diverse variety of tools and outreach approaches.” Communicating how the municipality is using public funds to protect water quality is a proven method for ensuring that the public will support public programs. The permit should be clear that a variety of outreach methods are required (not just one educational brochure).
 - Page 12, lines 29-33: Recommend adding language that permittees may, and are encouraged to, collaborate and cooperate on public education and outreach programs. This should lead to greater efficiencies and improved coordination.
 - Page 13, line 10: Recommend changing to “Provide information to the general public and others on the proper use and disposal of pesticides, herbicides, and fertilizers and the use of less toxic alternatives.” There are a number of less or non-toxic alternatives to lawn chemicals; every municipality should communicate these to their community.
 - Page 12 or 13: Recommend adding a new sub-element, or adding language to an existing sub-element, regarding proper automobile maintenance, fixing oil leaks, driving less, and other practices to reduce pollution from cars and trucks. Vehicles are a leading contributor of metals and petroleum products to state waters.
- S7, #2 Public Involvement and Participation – We recommend the following changes to make this element stronger and more consistent with other program elements, and to provide permittees with clear direction on permit requirements.
 - Page 13, starting line 29: Recommend starting this element with language similar to that used in element #1 to make the elements more consistent with one another: “Permittees must develop and implement a public involvement and participation program. The program shall include ongoing opportunities...”
 - Page 13, starting line 29: Recommend moving the following language from the introductory paragraph to the section on minimum performance measures: “...advisory councils, watershed committees, participation in developing rate-structures, stewardship programs, environmental activities, and other similar activities.” Currently, the minimum performance measures section appears incomplete. The activities cited above are important examples of public involvement that should be part of all permittees’ programs – they should not appear only in the introduction to this element, but in the minimum performance measures section.
 - Page 13, lines 29-33: Recommend adding language that permittees may, and are encouraged to, collaborate and cooperate on joint public involvement and

participation programs. This should lead to greater efficiencies and improved coordination.

- S7 Stormwater Management Program, page 12, line 3 – We recommend clarifying that the SWMP must be developed and implemented “by the expiration date of this permit, or according to timelines set forth in this permit.” There are numerous timelines in the permit to develop and implement program elements in one, two or four years; adding this language would clarify that all timelines set forth in the permit must be followed.

Areas of Support

- S1 Permit Coverage Area and Criteria, page 1, line 11 – We strongly support including the urban growth areas associated with the cities covered by this permit. Growth in our state will be directed to these areas – it is reasonable to assure that these rapidly growing areas will require urban levels of stormwater runoff management.
- S5 Compliance with Standards, New Stormwater Discharges, page 8, line 39 – We support the provision stating that if site-specific information indicates that the technical standards in the permit are not sufficient to protect beneficial uses, additional controls necessary to protect beneficial uses must be applied. This allows for the prudent use of additional controls when necessary.
- S6 Monitoring, discussion box – We support the development of integrated water quality monitoring programs (though perhaps not at the scale of WRIAs – see comment below) but do not feel that integrated programs need to be required by the permit. There may be cases where individual programs could be more practical and/or effective. Monitoring efforts should inform us as to the relative effectiveness of the NPDES permit program, and the effectiveness of permittees’ programs, in protecting water quality and biological resources from adverse effects of stormwater runoff.
- S7 Illicit Discharge Detection and Elimination, page 14, line 31 – We support the requirement that all outfall and tributary maps developed be in a GIS format that meets Ecology’s GIS standards.
- S7 Controlling Stormwater Runoff from New Development, Redevelopment and Construction Sites – We support the following permit provisions:
 - Page 17, line 28: We strongly support including the flow control and treatment standards, and the definition for pre-developed condition, from the 2005 SMMWW in the permit (Appendix 1). The *Regional Nearshore and Marine Aspects of Salmon Recovery in Puget Sound*, delivered to Shared Strategy for Puget Sound for inclusion in the regional salmon recovery plan, cites stormwater discharges as having adverse effects on salmon and bull trout populations listed as threatened under the Endangered Species Act (page 4-27 table 4-4; page 4-36 table 4-6). The chapter recommends using existing regulatory protection programs to maintain functions and water quality for threatened species and, as needed, refine the programs (page 7-8 table 7.1). Stronger stormwater management standards, particularly stronger flow control and treatment standards, are needed to protect and recover these valuable resources.
 - Page 18, line 8: We support the requirement that the program include legal authority to inspect private stormwater facilities. The entire stormwater system,

- both public and private, must be regularly inspected and maintained to ensure performance.
- Page 18, line 10: We strongly support the requirement to allow source reduction approaches such as low impact development and other measures to minimize the disturbance of soils, native vegetation and natural hydrology at development sites. LID practices hold great promise for helping us manage stormwater runoff more effectively. We do recommend, however, that the term “natural” be changed to “native” to be more accurate.
 - Page 19, line 12: We support the requirement to use the 2005 SMMWW for maintenance standards. This manual represents our region’s best current thinking on stormwater management.
 - Page 19, line 35: We support the requirement to inspect all new flow control and water quality treatment facilities, including catch basins, for new development every 6 months during the period of heaviest home construction. These inspections should uncover any problems that might arise, and would allow for speedy, cost-effective solutions.
 - Page 20, line 23: We support the requirement that all maintenance standards for O&M for municipal operations be at least as protective as those in the 2005 SMMWW.

Thank you for the opportunity to comment on the preliminary draft permit. If you have questions on these comments, please contact Bruce Wulkan, the PSAT Program Manager for stormwater and combined sewer overflows, at (360) 725-5455 or at bwulkan@psat.wa.gov.

Sincerely,

Brad Ack
Director

cc: Bruce Wulkan
Harriet Beale
Scott Redman